

No. PD-

TO THE COURT OF CRIMINAL APPEALS
OF THE STATE OF TEXAS

FILED
COURT OF CRIMINAL APPEALS
1/20/2021
DEANA WILLIAMSON, CLERK

JERROD P. ROLAND,

Appellant

v.

THE STATE OF TEXAS,

Appellee

Appeal from Fort Bend County
No. 01-19-00752-CR

* * * * *

STATE'S PETITION FOR DISCRETIONARY REVIEW

* * * * *

STACEY M. SOULE
State Prosecuting Attorney
Bar I.D. No. 24031632

P.O. Box 13046
Austin, Texas 78711
information@spa.texas.gov
512-463-1660 (Telephone)
512-463-5724 (Fax)

TABLE OF CONTENTS

IDENTITY OF JUDGE, PARTIES, AND COUNSEL	iii
INDEX OF AUTHORITIES	iv-v
STATEMENT REGARDING ORAL ARGUMENT	2
STATEMENT OF THE CASE	2
STATEMENT OF PROCEDURAL HISTORY	2
GROUND FOR REVIEW	2
Does TEX. CODE CRIM. PROC. art. 4.07’s grant of “original jurisdiction of all misdemeanors” give county courts jurisdiction—concurrent with district courts—over official misconduct cases?	
ARGUMENT	3-10
1. Background.....	3-7
2. Does TEX. CODE CRIM. PROC. art. 4.07’s grant of “original jurisdiction of all misdemeanors” give county courts jurisdiction, concurrent with district courts, over official misconduct cases?.....	7-10
PRAYER FOR RELIEF	11
CERTIFICATE OF COMPLIANCE	12
CERTIFICATE OF SERVICE.....	13
APPENDIX A (Opinion of the Court of Appeals)	
APPENDIX B (Applicable Statutes Cited in Alphabetical and Numerical Order)	

IDENTITY OF JUDGE, PARTIES, AND COUNSEL

- * The parties to the trial court's judgment are the State of Texas and Appellant, Jerrod P. Roland.
- * The trial judge was the Honorable Sherman Hatton, Jr., Fort Bend County Court at Law No. 6.
- * Counsel for the State at trial were Craig Priesmeyer and Traci M. Bennett, 301 Jackson Street, Room 101, Richmond, Texas 77469.
- * Counsel for the State on appeal was Baldwin Chin, 301 Jackson Street, Room 101, Richmond, Texas 77469.
- * Counsel for the State before the Court of Criminal Appeals is Stacey M. Soule, State Prosecuting Attorney, P.O. Box 13046, Austin, Texas 78711.
- * Counsel for Appellant at trial was James W. McCalla, P.O. Box 2108, Bellaire, Texas 77402.
- * Counsel for Appellant on appeal Patrick F. McCann, 700 Louisiana, Suite 3950 Houston, Texas 77002.

INDEX OF AUTHORITIES

Constitution

TEX. CONST. Art. V, § 1 5 n.3

TEX. CONST. Art. V, § 8 3, 4, 6

Cases

Campos v. State, 783 S.W.2d 7 (Tex. App.—Houston [14th] 1989, pet. ref'd) . 6-7

Dailing v. State, 546 S.W.3d 438 (Tex. App.—Houston [14th Dist.] 2018, no pet.) 6 n.4, 8

Gallagher v. State, 690 S.W.3d 587 (Tex. Crim. App. 1985) 4

Gutierrez v. State, 380 S.W.3d 167 (Tex. Crim. App. 2012) 10

Ex parte Moss, 446 S.W.3d 786 (Tex. Crim. App. 2014) 9-10

Roland v. State, __S.W.3d__, No. 01-19-00752-CR, 2020 WL 7349511 (Tex. App.—Houston [1st Dist.] 2020) 2, 3, 7, 8

Statutes

TEX. CODE CRIM. PROC. art. 4.01(6) 6 n.6

TEX. CODE CRIM. PROC. art. 4.01(7) 6 n.7

TEX. CODE CRIM. PROC. art. 4.05 4, 5

CODE CRIM. PROC. art. 4.07 6

TEX. GOV'T CODE § 21.009(2) 5

TEX. GOV'T CODE § 24.007(a) 5

TEX. GOV'T CODE § 25.0003	8
TEX. GOV'T CODE § 25.0003(a)	5
TEX. GOV'T CODE § 25.0811	8 n.5
TEX. GOV'T CODE § 25.0812	8, 8 n.6
TEX. GOV'T CODE § 26.045	5-6, 7-8
TEX. PENAL CODE § 12.03(a)(1).....	3 n.1
TEX. PENAL CODE § 39.03(a)(1).....	3 n.1
TEX. PENAL CODE § 39.03(d)	3 n.1

Legislative Acts

Acts 1987, 70th Leg., ch. 148 (S.B. 895), § 4.01, eff. Sept. 1, 1987.....	8 n.6
Acts 2017, 85th Leg., ch. 912 (S.B. 1329), § 3.01, eff. Jan. 1, 2018.....	8

Senate Joint Resolutions

S.J.R No. 14, § V, 69th Leg. R.S., 1985	4
S.J.R No. 14, §§ 4, 11, 69th Leg. R.S., 1985	3, 4-5
S.J.R No. 14, § 5, 69th Leg. R.S., 1985	5

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TO THE COURT OF CRIMINAL APPEALS
OF THE STATE OF TEXAS

JERROD P. ROLAND, Appellant

v.

THE STATE OF TEXAS, Appellee

Appeal from Fort Bend County
No. 01-19-00752-CR

* * * * *

STATE'S PETITION FOR DISCRETIONARY REVIEW

* * * * *

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

Historically, this Court has recognized district courts as having exclusive jurisdiction over official misconduct cases. Changes in the law have created an issue about whether constitutional and statutory county courts have concurrent jurisdiction. Conflicting precedent, resulting from conflicting statutes, should be settled by this

Court.

STATEMENT REGARDING ORAL ARGUMENT

The State does not request oral argument.

STATEMENT OF THE CASE

Appellant was charged with two Class A misdemeanor counts of official oppression in a county court of law; he was granted deferred adjudication community supervision for six months and fined \$100. 1 CR 11, 82-92. The court of appeals sustained Appellant's claim that the county court lacked subject-matter jurisdiction; it vacated and dismissed the trial court's judgment. *Roland v. State*, __ S.W.3d __, No. 01-19-00752-CR, 2020 WL 7349511, at *4 (Tex. App.—Houston [1st Dist.] 2020).

STATEMENT OF PROCEDURAL HISTORY

The court of appeals dismissed the county-court-at-law official oppression judgment for lack of jurisdiction on December 15, 2020. *Id.* The State's petition is due by January 14, 2021.

GROUND FOR REVIEW

Does TEX. CODE CRIM. PROC. art. 4.07's grant of "original jurisdiction of all misdemeanors" give county courts jurisdiction—concurrent with district courts—over official misconduct cases?

ARGUMENT

1. Background.

Appellant was charged with two counts of Misdemeanor Class A Official Oppression¹ in Fort Bend County Court of Law No. 6. 1 CR 8, 29-35. Appellant moved to dismiss, arguing that the court lacked jurisdiction because only district courts have jurisdiction over official oppression offenses. 1 CR 29-35. The trial judge denied the request. 1 RR 24. After the trial court granted Appellant deferred adjudication community supervision, he appealed the denial of the jurisdictional challenge. *Roland*, 2020 WL 7349511, at *2-4. In resolving the point of error, the First Court of Appeals reviewed a complicated web of jurisdictional constitutional and statutory provisions and court precedent discussed next.

Until November 5, 1985, TEX. CONST. Art. V, § 8 granted district courts original jurisdiction in, *inter alia*, all felony cases and misdemeanors involving official misconduct. S.J.R No. 14, §§ 4, 11, 69th Leg. R.S., 1985.² In accord with

¹ See TEX. PENAL CODE §§ 12.03(a)(1) (providing for Class A Misdemeanors), 12.21 (Class A Misdemeanor punishment includes a fine not to exceed \$4,000 and/or jail not to exceed a year), 39.03(a)(1) (“A public servant acting under color of his office or employment commits an offense if he: (1) intentionally subjects another to mistreatment . . . he knows is unlawful[.]”), 39.03(d) (Official Oppression has carried the Misdemeanor Class A punishment since 1993 per Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994).

² Available at https://lrl.texas.gov/scanned/sessionLaws/69-0/SJR_14.pdf.

the Texas Constitution, TEX. CODE CRIM. PROC. art. 4.05 gave district courts and criminal district courts original jurisdiction in all felonies and in misdemeanors involving official misconduct. Constitutional county courts, at the time, had jurisdiction over all misdemeanors that were not exclusive to “Justices Court.” S.J.R No. 14, § V, 69th Leg. R.S., 1985.

In *Gallagher v. State*, this Court held that the penal offense of official oppression qualifies as “official misconduct” for purposes of the district-court-jurisdiction constitutional and statutory provisions. 690 S.W.3d 587, 594 (Tex. Crim. App. 1985). “Where jurisdiction is given by the Constitution over cases involving designated kinds of subject matters, the grant is exclusive, unless a contrary intent is shown by the context.” *Id.* District courts therefore had exclusive jurisdiction over official oppression prosecutions, and county courts of law were without jurisdiction. *Id.*

In 1985, by majority vote of Texas citizens in the general election, TEX. CONST. Art. V, § 8 changed the jurisdiction for district courts by removing the “official misconduct” proviso: “District Court jurisdiction consists of exclusive, appellate, and original jurisdiction of all actions, proceedings, and remedies, *except in cases where exclusive, appellate, or original jurisdiction may be conferred by this Constitution or other law on some other court, tribunal, or administrative body.*” S.J.R No. 14, §§

4, 11, 69th Leg. R.S., 1985 (emphasis added); TEX. GOV'T CODE § 24.007(a) (“The district court has the jurisdiction provided by Article V, Section 8, of the Texas Constitution.”). TEX. CODE CRIM. PROC. art. 4.05 retained the “misdemeanor involving official misconduct” text: “District courts and criminal district courts shall have original jurisdiction in criminal cases of the grade of felony, of all misdemeanors involving official misconduct[.]” S.J.R No. 14, §§ 4, 11, 69th Leg. R.S., 1985. In the Constitution, constitutional county courts were given “jurisdiction as provided by law.” S.J.R No. 14, § 5, 69th Leg. R.S., 1985.

County courts at law, like Fort Bend’s No. 6, were created by the Legislature under the authority of TEX. CONST. Art. V, § 1.³ TEX. GOV'T CODE § 21.009(2) (“‘Statutory county court’ means a county court created by the legislature under Article V, Section 1, of the Texas Constitution[.]”). TEX. GOV'T CODE § 25.0003(a) grants statutory county courts jurisdiction over all criminal causes and proceedings prescribed by law for *constitutional county courts*. (emphasis added). TEX. GOV'T CODE § 26.045, governing constitutional-county-court jurisdiction, specifically excludes misdemeanors involving official misconduct from the list of offenses from

³ TEX. CONST. Art. V, § 1 states: “The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto.”

which it has exclusive jurisdiction. Consistent with TEX. CODE CRIM. PROC. art. 4.05 governing district court jurisdiction, TEX. GOV'T CODE § 26.045(a) states, in part: “a county court has exclusive original jurisdiction of misdemeanors other than misdemeanors involving official misconduct and cases in which the highest fine that may be imposed is \$500 or less.”

The potential outlier to this otherwise consistent scheme is TEX. CODE CRIM. PROC. art. 4.07, which governs county-court⁴ jurisdiction. TEX. CODE CRIM. PROC. art. 4.07 does not address official misconduct and broadly states that “county courts” have “original jurisdiction of all misdemeanors of which original jurisdiction is not given to the justice court, and when the fine to be imposed shall exceed five hundred dollars.”

In *Campos v. State*, the Fourteenth Court of Appeals held that the 1985 constitutional amendment to district court jurisdiction in TEX. CONST. Art. V, § 8 effectively superceded *Gallagher*’s original-is-the-equivalent-of-exclusive jurisdiction analysis. 783 S.W.2d 7, 8-9 (Tex. App.—Houston [14th] 1989, pet.

⁴ Constitutional county courts and county courts at law have criminal jurisdiction. TEX. CODE CRIM. PROC. art. 4.01(6) (county courts), (7) (county courts at law with criminal jurisdiction). However, it is unclear whether 4.07 applies only to constitutional county courts, or if it also includes county courts at law. *Dailing v. State*, 546 S.W.3d 438, 450 (Tex. App.—Houston [14th Dist.] 2018, no pet.) (presuming TEX. CODE CRIM. PROC. art. 4.07 applies to only constitutional county courts).

ref'd). It observed that district courts now have exclusive jurisdiction except when it has been conferred by “*other law on some court[.]*” *Id.* at 8 (emphasis added). “Other law,” the court noted, includes TEX. CODE CRIM. PROC. art. 4.07, which grants county courts jurisdiction over all misdemeanors (the exceptions being irrelevant). *Id.* Therefore, it announced that district and county courts now have concurrent jurisdiction over misdemeanors involving official misconduct. *Id.* at 8-9.

The First Court of Appeals in this case, after considering the foregoing, split with the Fourteenth Court and rejected *Campos*' interpretative significance of the 1985 TEX. CONST. Art. V, § 8 amendment. *Roland*, 2020 WL 7349511, at *3-4. Under TEX. GOV'T CODE § 26.045, it recognized, constitutional county courts do not have exclusive jurisdiction over misdemeanors involving official misconduct. *Id.* at *2. Further, TEX. CODE CRIM. PROC. art. 4.05 gives district courts and criminal district courts jurisdiction of all misdemeanors involving official misconduct. *Id.* at *2-4. Because official oppression is a form of official misconduct, the county-court-at-law judgment is void, and the trial court's judgment was dismissed. *Id.* at *4.

2. Does TEX. CODE CRIM. PROC. art. 4.07's grant of “original jurisdiction of all misdemeanors” give county courts jurisdiction, concurrent with district courts, over official misconduct cases?

At the outset, the statutes controlling the jurisdiction question here need to be clearly identified. Although the court of appeals considered TEX. GOV'T CODE §

26.054(a) to be generally applicable to statutory county courts, it is directly applicable to only constitutional county courts. *See Roland*, 2020 WL 7349511, at *2 (“Generally, county courts at law have exclusive original jurisdiction over misdemeanor offenses. *See TEX. GOV’T CODE § 26.045(a)[.]*”). TEX. GOV’T CODE §§ 25.0003 and 25.0812 control the statutory county-court aspect of the jurisdiction question. *See Dailing*, 546 S.W.3d at 452 (TEX. GOV’T CODE § 25.1033, a local-jurisdiction statute, prevailed over § 26.054). County Court at Law No. 6 was created in January 2018.⁵ Acts 2017, 85th Leg., ch. 912 (S.B. 1329), § 3.01, eff. Jan. 1, 2018. Under TEX. GOV’T CODE § 25.0812, a Fort Bend County Court of Law has jurisdiction under TEX. GOV’T CODE § 25.0003 and “other law.”⁶

Next, even though TEX. GOV’T CODE §§ 25.0003 and 25.0812 control, TEX. GOV’T CODE § 26.054(a) is incorporated by reference in § 25.0003’s reference to “constitutional county court,” giving Fort Bend County Court at Law No. 6 the same jurisdiction as constitutional county courts. Therefore, misdemeanor jurisdiction vested in Fort Bend County Court of Law No. 6 includes constitutional-county-court

⁵ TEX. GOV’T CODE § 25.0811 provides: “Fort Bend County has the following statutory county courts: . . . (6) County Court at Law No. 6 of Fort Bend County.”

⁶ TEX. GOV’T CODE § 25.0812 came into effect in 1987. Acts 1987, 70th Leg., ch. 148 (S.B. 895), § 4.01, eff. Sept. 1, 1987.

jurisdiction under § 25.0003 and that provided by “other law” under § 25.0812.

So the relevant question is what “other law,” according to *Campos*’ reading of TEX. CONST. Art. V, § 8 and TEX. GOV’T CODE § 25.0812, addresses misdemeanor jurisdiction? As discussed above, § 26.054(a) specifically excludes misdemeanors involving official misconduct from its exclusive jurisdiction. And as a corollary, TEX. CODE CRIM. PROC. art. 4.05 gives district courts and criminal district courts original jurisdiction in all felonies and in misdemeanors involving official misconduct. But TEX. CODE CRIM. PROC. art. 4.07 gives “county courts” “original jurisdiction of all misdemeanors of which original jurisdiction is not given to the justice court . . .”

As a result of the conflicting statutes, the First Court of Appeals’ decision here created a conflict with *Campos*. Therefore, this Court should decide whether TEX. CODE CRIM. PROC. art. 4.07⁷ authorizes concurrent jurisdiction over official misconduct cases when two other statutes vest jurisdiction of those cases in the district courts. The issue is of the upmost importance because subject matter jurisdiction, if improper, is not forfeitable and can render a judgment void. *See Ex*

⁷ There is no need to settle which county courts Article 4.07 applies to because, at the very least, it applies to constitutional county courts and thus to Fort Bend County Court at Law No. 6, which was granted the same jurisdiction. *Dailing*, 546 S.W.3d at 450 (presuming TEX. CODE CRIM. PROC. art. 4.07 applies to only constitutional county courts).

parte Moss, 446 S.W.3d 786, 789 (Tex. Crim. App. 2014) (a lack of jurisdiction renders a judgment void and that claims challenging a court's lack of jurisdiction are cognizable in an initial writ application."); *Gutierrez v. State*, 380 S.W.3d 167, 177 (Tex. Crim. App. 2012)(only subject matter jurisdiction is categorically immune from estoppel).

PRAYER FOR RELIEF

The State prays that the Court of Criminal Appeals grant this State's petition and review the court of appeals' decision holding that county courts do not have concurrent jurisdiction with district courts over official misconduct cases.

Respectfully submitted,

/s/ Stacey M. Soule
State Prosecuting Attorney
Bar I.D. No. 24031632

P.O. Box 13046
Austin, Texas 78711
information@spa.texas.gov
512-463-1660 (Telephone)
512-463-5724 (Fax)

CERTIFICATE OF COMPLIANCE

The undersigned certifies that according to the WordPerfect word count tool
this document contains 1,710 words, exclusive of the items excepted by TEX. R. APP.
P. 9.4(i)(1).

/s/ Stacey M. Soule
State Prosecuting Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the State's Petition for Discretionary Review has been served on January 14, 2021, *via* email or certified electronic service provider to:

Hon. Baldwin Chin
Baldwin.chin@fortbendcountytx.gov

Hon. Patrick F. McCann
writelawyer@justice.com

/s/ Stacey M. Soule
State Prosecuting Attorney

APPENDIX A

(Court of Appeals' Opinion)

2020 WL 7349511
Only the Westlaw citation
is currently available.

NOTICE: THIS OPINION HAS NOT
BEEN RELEASED FOR PUBLICATION
IN THE PERMANENT LAW REPORTS.
UNTIL RELEASED, IT IS SUBJECT
TO REVISION OR WITHDRAWAL.

Court of Appeals of Texas,
Houston (1st Dist.).

Jerrod P. ROLAND, Appellant
v.
The STATE of Texas, Appellee

NO. 01-19-00752-CR

|

Opinion issued December 15, 2020

Synopsis

Background: Defendant was convicted, after pleading no contest, to official oppression, a Class A misdemeanor. The County Court at Law No. 6, Fort Bend County, No. 13-CCR-168560, placed him on deferred adjudication community supervision for six months. Defendant appealed.

The Court of Appeals, Landau, J., held that offense charged was within exclusive jurisdiction of District Court, and thus, County Court at Law was without jurisdiction to try case.

Vacated and dismissed.

**On Appeal from the County Court at Law
No. 6, Fort Bend County, Texas, Trial Court
Case No. 13-CCR-168560**

Attorneys and Law Firms

Patrick F. McCann, 700 Louisiana, Ste. 3950,
Houston, Texas 77002, for Appellant.

Brian Middleton, District Attorney, Fort Bend
County, Texas, Baldwin Chin, 301 Jackson
Street, Room 101, Richmond, Texas 77469, for
Appellee.

Panel consists of Justices Keyes, Lloyd, and
Landau.

OPINION

Sarah Beth Landau, Justice

***1** Appellant, Jerrod P. Roland, pleaded no contest to official oppression, a Class A misdemeanor. The trial court placed Roland on deferred adjudication community supervision for six months. On appeal, he contends that the trial court lacked jurisdiction over his case and the judgment of conviction is void.

We vacate and dismiss the trial court's judgment.

Background

Roland worked at the Fort Bend County Juvenile Probation Department as a drill instructor. The complaint alleged that Roland assaulted two juveniles he supervised. The

State charged Roland by information with two counts of the Class A misdemeanor offense of official oppression in Fort Bend County Court at Law No. 4.¹ See Tex. Penal Code § 39.03(a); (d). The information alleged that Roland, on or about May 26, 2013:

Count I

then and there intentionally subject [Complainant #1] to mistreatment that [Roland] knew was unlawful, to-wit: hitting or slapping [Complainant #1], and [Roland] was then and there acting under color of his employment as drill instructor with the Fort Bend County Juvenile Probation Department.

Count II

then and there intentionally subject [Complainant #2] to mistreatment that [Roland] knew was unlawful, to-wit: pushing [Complainant #2], and [Roland] was then and there acting under color of his employment as drill instructor with the Fort Bend County Juvenile Probation Department.

County Court at Law Number 4 transferred the case to County Court at Law Number 5, and the State moved to transfer jurisdiction to the district court, asserting that the “proper court of jurisdiction for a charge of official oppression is the Criminal District Court.” The trial court set the matter for hearing, but the State passed.

¹ Cause number 13-CCR-168560 was assigned to this case.

In October 2016, the Fort Bend County District Attorney presented this case to a grand jury, and Roland was indicted on the misdemeanor

charges. The district court presided over the indicted charges.² The county court at law placed the charges brought by information on hold.³ Roland moved to dismiss the district court case on statute of limitations, and the district court granted the motion. The State did not appeal the district court's ruling.

² The district court assigned cause number 16-DCR-75581 to this case. The allegations in the indictment in the district court case mirrored those in the county court case, except the indictment included tolling language:
And it is further presented in and to said court that during a period from July 2, 2013 until October 24, 2016 an information charging the above offense was pending in a court of competent jurisdiction, to wit: cause number 13-CCR-168560 in the County Court at Law Number 5 of Fort Bend County, Texas, styled the State of Texas vs. Jerrod P. Roland.

³ By this time, County Court at Law Number 5 had transferred the case to County Court at Law Number 6.

Roland filed an amended motion to dismiss the pending charges in the county court, challenging the county court's jurisdiction. He asserted that the county court lacked jurisdiction because only district courts have original jurisdiction over official-oppression cases. In response, the State argued that district courts and county courts have concurrent jurisdiction over official-oppression cases.

***2** The trial court denied Roland's motion to dismiss. The same day, Roland pleaded no contest to the official-oppression charges, and the trial court placed Roland on deferred adjudication community supervision for six months. Roland appealed.

Jurisdiction

In his sole issue, Roland contends that his conviction is void. He argues that the county court at law lacked subject-matter jurisdiction over his case because the district court, not the county court at law, had sole jurisdiction to hear an official-oppression case.⁴ The State responds that district courts and county courts have concurrent original jurisdiction over misdemeanor offenses involving official misconduct.

4 Roland also argues that the trial court's judgment was void because the statute of limitations had expired. Because the issue of jurisdiction disposes of the appeal, we do not reach Roland's limitations challenge.

Subject-matter jurisdiction is the trial court's power over the subject matter of the case. *Fairfield v. State*, 610 S.W.2d 771, 779 (Tex. Crim. App. 1981). A party may challenge the jurisdiction at any time. *Puente v. State*, 71 S.W.3d 340, 343 (Tex. Crim. App. 2002). A judgment of conviction is void if the trial court lacks subject-matter jurisdiction. *Ex parte Moss*, 446 S.W.3d 786, 789 (Tex. Crim. App. 2014). "Whether a trial court has subject-matter jurisdiction is a question of law that we review de novo." *Comunidad Corp. v. State*, 445 S.W.3d 401, 404 (Tex. App.—Houston [1st Dist.] 2013, no pet.).

To determine whether a court has jurisdiction, we review the Texas Constitution or applicable statutes granting the court its jurisdiction. See *Gallagher v. State*, 690 S.W.2d 587, 594 (Tex. Crim. App. 1985) (en banc) ("Where jurisdiction is given by the Constitution over cases involving designated kinds of subject matters, the grant is exclusive, unless a contrary intent is shown by the context. Further, it has been stated that the jurisdiction of the district court is fixed by the state Constitution and is

immutable except by constitutional method of amendment").

Generally, county courts at law have exclusive original jurisdiction over misdemeanor offenses. See Tex. Gov't Code § 26.045(a); see also Tex. Const. Art. V, §§ 16–17. The exception to this general rule, however, is that county courts at law do not have exclusive original jurisdiction over misdemeanors involving official misconduct and offenses punishable by a fine of \$500 or less. Tex. Gov't Code § 26.045(a). Article 4.05 of the Texas Code of Criminal Procedure confers original jurisdiction of proceedings of all misdemeanors involving official misconduct to district courts and criminal district courts. See Tex. Code Crim. Proc. Art. 4.05.

A defendant commits official oppression if the State proves beyond a reasonable doubt that a "public servant acting under color of his office or employment ... intentionally subjects another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful." Tex. Penal Code § 39.03(a)(1). Absent exceptions inapplicable here, official oppression is a Class A misdemeanor. *Id.* § 39.03(d). The penalty for this offense is a fine of up to \$4,000, confinement in jail for up to one year, or both. *Id.* § 12.21.

*3 Here, the State charged Roland with two counts of official oppression. These charges remained pending until the trial court denied Roland's amended motion to dismiss and entered a judgment of conviction against Roland following his no-contest plea.

The Texas Court of Criminal Appeals provided a non-exhaustive list of rare circumstances that renders a judgment for conviction for a crime void:

- (1) the document purporting to be a charging instrument (i.e. indictment, information, or complaint) does not satisfy the constitutional requisites of a charging instrument, thus the trial court has no jurisdiction over the defendant,
- (2) *the trial court lacks subject matter jurisdiction over the offense charged, such as when a misdemeanor involving official misconduct is tried in a county court at law*,
- (3) the record reflects that there is no evidence to support the conviction, or
- (4) an indigent defendant is required to face criminal trial proceedings without appointed counsel, when such has not been waived, in violation of *Gideon v. Wainwright*.⁵

Nix v. State, 65 S.W.3d 664, 668 (Tex. Crim. App. 2001) (emphasis added), abrogated on other grounds by *Wright v. State*, 506 S.W.3d 478 (Tex. Crim. App. 2016). The precedent of the Court of Criminal Appeals is binding on this court. See *State ex rel. Wilson v. Briggs*, 171 Tex. Crim. 479, 482, 351 S.W.2d 892, 894 (1961) (“The Court of Criminal Appeals is the court of last resort in this [S]tate in criminal matters. This being so, no other court of this state has authority to overrule or circumvent its decisions, or disobey its mandates.”); Tex. Const. Art. V, § 5(a) (Court of Criminal Appeals is final authority for criminal law in Texas); *Farris v. State*, 581 S.W.3d 920, 924 (Tex. App.—Houston [1st Dist.] 2019, pet. ref'd) (“[W]e, as an intermediate appellate court, are bound in criminal cases to follow the decisions of the Court of Criminal Appeals”).

⁵ 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963).

Official oppression is a subcategory of misdemeanors involving official misconduct. See *Emerson v. State*, 662 S.W.2d 92, 94 (Tex. App.—Houston [1st Dist.] 1983), *aff'd*, 727 S.W.2d 267 (Tex. Crim. App. 1987) (official oppression “is within the ambit of the phrase ‘official misconduct’ as that term is used in the State Constitution and the Code of Criminal Procedure”). A conviction for official oppression in a county court at law is void. See *Gallagher*, 690 S.W.2d at 593–94; *Nix*, 65 S.W.3d at 667–68; Tex. Code Crim. Proc. Art. 4.05.

The State argues that *Campos v. State*, 783 S.W.2d 7 (Tex. App.—Houston [14th Dist.] 1989, pet. ref'd), holds that district courts and county courts have concurrent jurisdiction over misdemeanor official-oppression cases. In *Campos*, the court determined that article 4.07 of the Code of Criminal Procedure—the authority granting county courts at law jurisdiction over all misdemeanors—was an “exception to the exclusive jurisdiction of the district courts.” *Id.* at 8. However, our sister court clarified its earlier decision and explained that “the statement in *Campos* that article 4.07 provided county courts at law jurisdiction over all misdemeanors amounts to an obiter dictum and so does not bind this court.” *Dailing v. State*, 546 S.W.3d 438, 450 (Tex. App.—Houston [14th Dist.] 2018, no pet.) (citing *Garrett v. State*, 377 S.W.3d 697, 704 n.27 (Tex. Crim. App. 2012)). Neither the Code of Criminal Procedure nor the Government Code grants original jurisdiction over misdemeanors involving official misconduct to county courts

at law. *Cf.* Tex. Code Crim. Proc. Art. 4.05; Tex. Gov't Code § 26.045(a).

***4** We therefore hold that the county court at law lacked jurisdiction to enter a judgment of conviction for official oppression against Roland. *See, e.g., Gallagher*, 690 S.W.2d at 594 (county criminal court at law lacked jurisdiction to try official-oppression case); *Emerson*, 662 S.W.2d at 94 (jurisdiction for official-oppression proceedings lies in district courts); *Rendon v. State*, 695 S.W.2d 1, 6 (Tex. App.—Corpus Christi 1984, pet. ref'd) (op.

on reh'g.) (applying *Emerson* and holding that county court at law lacked jurisdiction over official-oppression prosecution).

Conclusion

We vacate and dismiss the judgment of the trial court.

All Citations

--- S.W.3d ----, 2020 WL 7349511

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APPENDIX B

Vernon's Texas Statutes and Codes Annotated
Code of Criminal Procedure (Refs & Annos)
Title 1. Code of Criminal Procedure
Courts and Criminal Jurisdiction
Chapter Four. Courts and Criminal Jurisdiction (Refs & Annos)

Vernon's Ann.Texas C.C.P. Art. 4.01

Art. 4.01. What Courts Have Criminal Jurisdiction

Effective: September 1, 2019
Currentness

The following courts have jurisdiction in criminal actions:

1. The Court of Criminal Appeals;
2. Courts of appeals;
3. The district courts;
4. The criminal district courts;
5. The magistrates appointed by the judges of the district courts of Bexar County, Dallas County, Tarrant County, or Travis County that give preference to criminal cases and the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County;
6. The county courts;
7. All county courts at law with criminal jurisdiction;
8. County criminal courts;

9. Justice courts;
10. Municipal courts;
11. The magistrates appointed by the judges of the district courts of Lubbock County; and
12. The magistrates appointed by the El Paso Council of Judges.

Credits

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966. Amended by Acts 1981, 67th Leg., p. 801, ch. 291, § 101, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 883, ch. 204, § 2, eff. Aug. 29, 1983; Acts 1989, 71st Leg., ch. 25, § 3, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 79, § 2, eff. May 15, 1989; Acts 1989, 71st Leg., ch. 1068, § 3, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 16, § 4.03, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 413, § 2, eff. Sept. 1, 1993; Acts 2019, 86th Leg., ch. 606 (S.B. 891), § 5.02, eff. Sept. 1, 2019.

Notes of Decisions (46)

Vernon's Ann. Texas C. C. P. Art. 4.01, TX CRIM PRO Art. 4.01

Current through the end of the 2019 Regular Session of the 86th Legislature

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Vernon's Texas Statutes and Codes Annotated
Code of Criminal Procedure (Refs & Annos)
Title 1. Code of Criminal Procedure
Courts and Criminal Jurisdiction
Chapter Four. Courts and Criminal Jurisdiction (Refs & Annos)

Vernon's Ann.Texas C.C.P. Art. 4.05

Art. 4.05. Jurisdiction of district courts

Currentness

District courts and criminal district courts shall have original jurisdiction in criminal cases of the grade of felony, of all misdemeanors involving official misconduct, and of misdemeanor cases transferred to the district court under Article 4.17 of this code.

Credits

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966. Amended by Acts 1983, 68th Leg., p. 1585, ch. 303, § 5, eff. Jan. 1, 1984.

Notes of Decisions (81)

Vernon's Ann. Texas C. C. P. Art. 4.05, TX CRIM PRO Art. 4.05

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Vernon's Texas Statutes and Codes Annotated
Code of Criminal Procedure (Refs & Annos)

Title 1. Code of Criminal Procedure

Courts and Criminal Jurisdiction

Chapter Four. Courts and Criminal Jurisdiction (Refs & Annos)

Vernon's Ann.Texas C.C.P. Art. 4.07

Art. 4.07. Jurisdiction of county courts

Currentness

The county courts shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the justice court, and when the fine to be imposed shall exceed five hundred dollars.

Credits

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966. Amended by Acts 1991, 72nd Leg., ch. 108, § 3, eff. Sept. 1, 1991.

Notes of Decisions (44)

Vernon's Ann. Texas C. C. P. Art. 4.07, TX CRIM PRO Art. 4.07

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Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 2. Judicial Branch (Refs & Annos)
Subtitle A. Courts
Chapter 21. General Provisions (Refs & Annos)

V.T.C.A., Government Code § 21.009

§ 21.009. Definitions

Effective: September 1, 2017
Currentness

In this title:

(1) "County court" means the court created in each county by Article V, Section 15, of the Texas Constitution.

(2) "Statutory county court" means a county court created by the legislature under Article V, Section 1, of the Texas Constitution, including county courts at law, county criminal courts, county criminal courts of appeals, and county civil courts at law, but does not include statutory probate courts as defined by Chapter 22, Estates Code.

(3) "County judge" means the judge of the county court.

(4) "Statutory probate court" has the meaning assigned by Chapter 22, Estates Code.

Credits

Added by Acts 1987, 70th Leg., ch. 148, § 2.02, eff. Sept. 1, 1987. Renumbered from V.T.C.A., Government Code § 21.008 by Acts 1989, 71st Leg., ch. 2, § 16.01(18), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 394, § 1, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 746, § 1, eff. Oct. 1, 1991; Acts 1999, 76th Leg., ch. 431, § 1, eff. Sept. 1, 1999; Acts 2017, 85th Leg., ch. 324 (S.B. 1488), § 22.021, eff. Sept. 1, 2017.

Notes of Decisions (3)

V. T. C. A., Government Code § 21.009, TX GOVT § 21.009

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Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 2. Judicial Branch (Refs & Annos)
Subtitle A. Courts
Chapter 24. District Courts
Subchapter A. General Provisions

V.T.C.A., Government Code § 24.007

§ 24.007. Jurisdiction

Effective: January 1, 2012
Currentness

- (a) The district court has the jurisdiction provided by Article V, Section 8, of the Texas Constitution.
- (b) A district court has original jurisdiction of a civil matter in which the amount in controversy is more than \$500, exclusive of interest.

Credits

Acts 1985, 69th Leg., ch. 480, § 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, § 1.36, eff. Sept. 1, 1987; Acts 2011, 82nd Leg., 1st C.S., ch. 3 (H.B. 79), § 3.02, eff. Jan. 1, 2012.

Editors' Notes

REVISOR'S NOTE

2004 Main Volume

The revised law omits the types of jurisdiction listed in V.A.C.S. Article 1906 that are contained in Article V, Section 8, of the Texas Constitution. The omitted provisions read:

Art. 1906. The district court shall have original jurisdiction in civil cases of:

1. Suits in behalf of the State to recover penalties, forfeitures and escheats.

2. Cases of divorce....
3. Suits to recover damages for slander or defamation of character.
4. Suits for the trial of title to land and for the enforcement of liens thereon.
5. Suits for trial of right to property levied on by virtue of any writ of execution, sequestration or attachment, when the property levied on shall be equal to or exceed in value five hundred dollars.
6. Suits, complaints or pleas, without regard to any distinction between law and equity, when the matter in controversy [controversy] shall be valued at or amount to five hundred dollars exclusive of interest.
7. Contested elections.

Notes of Decisions (31)

V. T. C. A., Government Code § 24.007, TX GOVT § 24.007

Current through the end of the 2019 Regular Session of the 86th Legislature

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Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 2. Judicial Branch (Refs & Annos)
Subtitle A. Courts
Chapter 25. Statutory County Courts (Refs & Annos)
Subchapter A. General Provisions

V.T.C.A., Government Code § 25.0003

§ 25.0003. Jurisdiction

Effective: September 1, 2020
Currentness

- (a) A statutory county court has jurisdiction over all causes and proceedings, civil and criminal, original and appellate, prescribed by law for county courts.
- (b) A statutory county court does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business that is within the jurisdiction of the commissioners court of each county.
- (c) In addition to other jurisdiction provided by law, a statutory county court exercising civil jurisdiction concurrent with the constitutional jurisdiction of the county court has concurrent jurisdiction with the district court in:
- (1) civil cases in which the matter in controversy exceeds \$500 but does not exceed \$250,000 , excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs, as alleged on the face of the petition; and
 - (2) appeals of final rulings and decisions of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims, regardless of the amount in controversy.

- (d) Except as provided by Subsection (e), a statutory county court has, concurrent with the county court, the probate jurisdiction provided by general law for county courts.
- (e) In a county that has a statutory probate court, a statutory probate court is the only county court created by statute with probate jurisdiction.
- (f) A statutory county court does not have the jurisdiction of a statutory probate court granted statutory probate courts by the Estates Code.

Credits

Added by Acts 1987, 70th Leg., ch. 148, § 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, §§ 2, 3, eff. Oct. 1, 1991; Acts 1999, 76th Leg., ch. 431, § 2, eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 265, § 6.002, eff. Sept. 1, 2005; Acts 2011, 82nd Leg., 1st C.S., ch. 3 (H.B. 79), § 4.02, eff. Jan. 1, 2012; Acts 2017, 85th Leg., ch. 324 (S.B. 1488), § 22.022, eff. Sept. 1, 2017; Acts 2019, 86th Leg., ch. 696 (S.B. 2342), § 2, eff. Sept. 1, 2020.

Notes of Decisions (141)

V. T. C. A., Government Code § 25.0003, TX GOVT § 25.0003
Current through the end of the 2019 Regular Session of the 86th Legislature

Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 2. Judicial Branch (Refs & Annos)
Subtitle A. Courts
Chapter 25. Statutory County Courts (Refs & Annos)
Subchapter C. Provisions Relating to Particular Counties

V.T.C.A., Government Code § 25.0811

§ 25.0811. Fort Bend County

Effective: January 1, 2018
Currentness

Fort Bend County has the following statutory county courts:

- (1) County Court at Law No. 1 of Fort Bend County;
- (2) County Court at Law No. 2 of Fort Bend County;
- (3) County Court at Law No. 3 of Fort Bend County;
- (4) County Court at Law No. 4 of Fort Bend County;
- (5) County Court at Law No. 5 of Fort Bend County; and
- (6) County Court at Law No. 6 of Fort Bend County.

Credits

Added by Acts 1987, 70th Leg., ch. 148, § 4.01, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 653, § 1, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 278, § 1, eff. Jan. 1, 2001; Acts 2015, 84th Leg., ch. 1182 (S.B. 1139), § 3.03(a), eff. Sept. 1, 2015; Acts 2017, 85th Leg., ch. 912 (S.B. 1329), § 3.01, eff. Jan. 1, 2018.

V. T. C. A., Government Code § 25.0811, TX GOVT § 25.0811
Current through the end of the 2019 Regular Session of the 86th Legislature

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Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 2. Judicial Branch (Refs & Annos)
Subtitle A. Courts
Chapter 25. Statutory County Courts (Refs & Annos)
Subchapter C. Provisions Relating to Particular Counties

V.T.C.A., Government Code § 25.0812

§ 25.0812. Fort Bend County Court at Law Provisions

Effective: September 1, 2020
Currentness

(a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Fort Bend County has concurrent jurisdiction with the district court in family law cases and proceedings.

(b) A county court at law is primarily responsible for and shall give preference to:

(1) cases in which the court's jurisdiction is concurrent with the county court;

(2) eminent domain proceedings and cases;

(3) proceedings under Title 3, Family Code;¹ and

(4) civil cases in which the amount in controversy does not exceed \$20,000, excluding interest.

(c) A county court at law may enforce an order of the Family District Court for the 328th Judicial District relating to a family law matter.

(d) Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 3 (H.B. 79), § 4.50(a)(36).

- (e) Repealed by Acts 1991, 72nd Leg., ch. 746, § 70, eff. Oct. 1, 1991.
- (f) Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 3 (H.B. 79), § 4.50(a)(36).
- (g) The salary of a judge of a county court at law shall be paid from the county treasury on order of the commissioners court in the same manner that county employees are paid.
- (h) Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 3 (H.B. 79), § 4.50(a)(36).
- (i) The district clerk serves as clerk of the county courts at law in cases in which the district courts and county courts at law have concurrent jurisdiction, and which have been instituted in the district courts, and the county clerk serves as clerk of the county courts at law in all other cases.
- (j) Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 3 (H.B. 79), § 4.50(a)(36).
- (k) If a jury trial is requested in a case of concurrent jurisdiction between the district courts and the county courts at law, and the case was instituted in the district court, the jury shall be composed of 12 members. In all other cases in which a jury trial is requested in the county courts at law, the jury shall be composed of six members except as provided by the constitution, Section 25.0007(c), or other law.
- (l) Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 3 (H.B. 79), § 4.50(a)(36).
- (m) Sections 25.0005(b) and 25.0011 do not apply to a county court at law in Fort Bend County.

Credits

Added by Acts 1987, 70th Leg., ch. 148, § 4.01, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 746, §§ 23, 70, eff. Oct. 1, 1991; Acts 2011, 82nd Leg., 1st C.S., ch. 3 (H.B. 79), § 4.50(a)(36), eff. Jan. 1, 2012; Acts 2019, 86th Leg., ch. 696 (S.B. 2342), § 10, eff. Sept. 1, 2020.

Footnotes

1 V.T.C.A., Family Code § 51.01 et seq.

V. T. C. A., Government Code § 25.0812, TX GOVT § 25.0812

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Vernon's Texas Statutes and Codes Annotated
Government Code (Refs & Annos)
Title 2. Judicial Branch (Refs & Annos)
Subtitle A. Courts
Chapter 26. Constitutional County Courts (Refs & Annos)
Subchapter D. Jurisdiction and Powers

V.T.C.A., Government Code § 26.045

§ 26.045. Original Criminal Jurisdiction

Effective: September 1, 2015
Currentness

- (a) Except as provided by Subsection (c), a county court has exclusive original jurisdiction of misdemeanors other than misdemeanors involving official misconduct and cases in which the highest fine that may be imposed is \$500 or less.
- (b) Except as provided by Subsection (c), a county court has jurisdiction in the forfeiture and final judgment of bonds and recognizances taken in criminal cases within the court's jurisdiction.
- (c) Except as provided by Subsections (d) and (f), a county court that is in a county with a criminal district court does not have any criminal jurisdiction.
- (d) A county court in a county with a population of 1.75 million or more has original jurisdiction over cases alleging a violation of Section 25.093, Education Code, or alleging truant conduct under Section 65.003(a), Family Code.
- (e) Subsections (c) and (d) do not affect the jurisdiction of a statutory county court.
- (f) A county court has concurrent jurisdiction with a municipal court in cases that arise in the municipality's extraterritorial jurisdiction and that arise under an ordinance of the municipality applicable to the extraterritorial jurisdiction under Section 216.902, Local Government Code.

Credits

Acts 1985, 69th Leg., ch. 480, § 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 148, § 1.41, eff. Sept. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 45, § 1, eff. Oct. 20, 1987; Acts 1991, 72nd Leg., ch. 108, § 6, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 137, § 1, eff. Sept. 1, 2003; Acts 2007, 80th Leg., ch. 612, § 11, eff. Sept. 1, 2007; Acts 2011, 82nd Leg., ch. 148 (H.B. 734), § 4, eff. Sept. 1, 2011; Acts 2015, 84th Leg., ch. 935 (H.B. 2398), § 29, eff. Sept. 1, 2015.

Notes of Decisions (14)

V. T. C. A., Government Code § 26.045, TX GOVT § 26.045

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Patrick F.McCann		writlawyer@justice.com	1/14/2021 2:48:39 PM	ERROR